

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-158

July 25, 2001

WILLIAM HARTLEY
Appeal of Consumer Assistance Division
Decision #1997-4282

ORDER ON APPEAL

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we allow the arrangement agreed to by Maine Telephone Company (Maine Telephone), Verizon Maine (Verizon) and Mr. William Hartley for telephone service to Mr. Hartley's residence in Windham, Maine to continue in effect as it has been since our Interim Order of July 8, 1998 in this docket. We also dismiss this appeal.

II. BACKGROUND AND DECISION

This matter involves an appeal by Tracy Hartley, apparently on behalf of her son William Hartley, concerning a Consumer Assistance Division (CAD) resolution of a dispute with Verizon over Mrs. Hartley's request to allow Maine Telephone to serve Mr. Hartley even though the Hartley property is located within Verizon's service territory. The CAD concluded that it was without authority to require Verizon to relinquish part of its service territory to Maine Telephone.

According to information provided to CAD, Mr. Hartley purchased a home on property located in Windham, next to the Raymond and Windham town line. The property is accessible by a road from Raymond but not from Windham. Maine Telephone installed a telephone line to Mr. Hartley's house¹ but was not willing to provide service in the absence of permission from Verizon. The cost for constructing a 3700 foot line extension from Verizon's existing lines is \$1365. This cost includes 15 new poles to reach Mr. Hartley's property and the placement of the line over those poles. Alternatively, Mr. Hartley could obtain required permits and rights of way, and provide the trenching necessary for Verizon to provide circuit construction to serve Mr. Hartley. Verizon and Maine Telephone reached an agreement that would allow Maine

¹ Maine Telephone apparently installed the line under the mistaken impression that the Hartley property was located in Raymond.

Telephone to serve Mr. Hartley on a temporary basis until he could obtain rights of way and easements necessary for Verizon to provide service. Mr. Hartley did not accept the agreement and the CAD did not require any further action by Verizon.

Mr. Hartley did not timely appeal CAD's initial decision. However, as a result of Mrs. Hartley's dissatisfaction with the CAD decision involving service to her son's property, the CAD reinvestigated the dispute. In a letter dated February 18, 1998, the CAD once again concluded that it had no authority to change the boundary lines of utility service territories. On February 27, 1998, Mrs. Hartley appealed this decision to the Commission.

On June 29, 1998, the Commission considered Mrs. Hartley's appeal. It decided not to resolve the case at that time, but instead to maintain the status quo. Maine Telephone had offered to provide up to six months of temporary service if Mr. Hartley requested it and paid \$400. The Commission directed that offer to remain open to Mr. Hartley until the case was resolved.

Mr. Hartley subsequently paid the \$400 and accepted the "temporary service." Maine Telephone provided the service with the condition that the service was through its Raymond exchange, thereby not affording Mr. Hartley municipal calling in Windham, and that the service was for one line. Mr. Hartley accepted these terms and has received service from Maine Telephone under these terms from the end of July 1998 to the present.

Recently, our CAD Director contacted representatives of both Maine Telephone and Verizon. Neither company opposes allowing the current arrangement to continue as an exception. Verizon's position is subject to the understanding that it is neither ceding any part of its service territory to Maine Telephone, nor acknowledging any right of Maine Telephone to serve Mr. Hartley in the present manner. Verizon reserves its right to assert in the future its authority to serve Mr. Hartley and any new houses built in this area. Maine Telephone agrees subject to the understanding that its agreement does not constitute or imply any assertion or concession with regard to any issue regarding service territories, authorities to serve or obligations to serve in the area in question.

We accept Verizon's and Maine Telephone's conditions with the understanding that they will apply to any subsequent purchaser of Mr. Hartley's residence. Because we find that the original cause of the appeal has been eliminated, we decline to investigate this matter further and we dismiss the appeal.

Dated at Augusta, Maine, this 25th day of July, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.